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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-831]

Fresh Garlic from the People's Republic of China: Final Results and Partial Rescission of the 19th Antidumping Duty Administrative Review; 2012-2013

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY:

On December 8, 2014, the Department of Commerce (the Department) published its preliminary results of the 2012-2013 administrative review of the antidumping duty order on fresh garlic from the People's Republic of China (PRC).¹ The period of review is November 1, 2012, through October 31, 2013. The mandatory respondents in this review are: Hebei Golden Bird Trading Co., Ltd. (Golden Bird) and Jinxiang Hejia Co., Ltd. (Hejia). Following the *Preliminary Results*, we invited interested parties to comment. We have made no changes for these final results of the antidumping duty administrative review.

As discussed below, the Department is relying on total adverse facts available with respect to the PRC-wide entity, which includes Golden Bird and Hejia, because both failed to cooperate to the best of their ability in this administrative review. The Department is also finding 16 companies had no shipments during the period of review. These determinations and the final dumping margins are discussed below in the "Final Results" section of this notice.

¹ See *Fresh Garlic From the People's Republic of China: Preliminary Results of the Nineteenth Antidumping Duty Administrative Review; 2012–2013*, 79 FR 72625 (December 8, 2014) (*Preliminary Results*).

DATES: EFFECTIVE DATE: (INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*.)

FOR FURTHER INFORMATION CONTACT: Nicholas Czajkowski, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1395.

Background

Since the Department published the preliminary results of this administrative review,² Golden Bird and Shenzhen Xinboda Industrial Co. Ltd. (Xinboda) submitted case briefs on January 19 and 20, 2015, respectively. On January 29, 2015, Petitioners³ submitted a rebuttal brief.

Scope of the Order

The products subject to this antidumping duty order are all grades of garlic, whole or separated into constituent cloves, whether or not peeled, fresh, chilled, frozen, provisionally preserved, or packed in water or other neutral substance, but not prepared or preserved by the addition of other ingredients or heat processing. Fresh garlic that are subject to the order are currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) 0703.20.0010, 0703.200020, 0703.20.0090, 0710.80.7060, 0710.80.9750, 0711.90.6000, and 2005.90.9700. Although the HTSUS numbers are provided for convenience and customs purposes, the written product description remains dispositive. A full description of the scope of

² *Id.*

³ Petitioners consist of the following companies: the Fresh Garlic Producers Association and its individual members: Christopher Ranch L.L.C., The Garlic Company, Valley Garlic, and Vessey and Company, Inc.

the order is contained in the Issues and Decision memorandum dated concurrently with and hereby adopted by this notice.⁴

Analysis of Comments Received

All issues raised in the case and rebuttal briefs are addressed in the Issues and Decision Memorandum, which is dated concurrently and is hereby adopted by this notice. A list of the issues that are raised in the briefs and addressed in the Issues and Decision Memorandum is in Appendix III of this notice. The Issues and Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>, and is available to all parties in the Department's Central Records Unit, located in room 7046 of the main Department of Commerce building. In addition, a complete version of the Decision Memorandum can be found at <http://enforcement.trade.gov/frn/>. The signed and the electronic versions of the Decision Memorandum are identical in content.

Changes Since the Preliminary Results

For the final results, based on analysis of the comments received and our review of the record, the Department has made no changes to the *Preliminary Results*. Detailed discussions of the issues raised by parties can be found in the Decision Memorandum.

Final Determination of No Shipments

As discussed in the *Preliminary Results*, 16 companies timely certified that they had no shipments during the period of review. After reviewing these certifications with U.S. Customs

⁴ See Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, regarding "Issues and Decision Memorandum for the Final Results of Antidumping Duty Administrative Review: Fresh Garlic from the People's Republic of China; 2012-2013 Administrative Review," issued concurrently with this notice (Decision Memorandum).

and Border Protection (CBP) and examining CBP shipment data, the Department preliminary found that these companies did not have reviewable transactions during the POR.⁵ Since the *Preliminary Results*, the Department has not received comments or information that would warrant a review of this preliminary finding. As such, for these final results, the Department finds that the 16 companies listed in Appendix I had no shipments during the POR.

PRC-Wide Entity

As discussed in the *Preliminary Results*, the Department preliminarily determined that 124 companies are part of the PRC-wide entity.⁶ In addition to the two mandatory respondents who failed to cooperate to the best of their ability to comply with requested information, the Department also found that 92 of the companies whose review requests were withdrawn had not been assigned a separate rate from a prior segment of the proceeding, and thus were considered part of the PRC-wide entity. Further, an additional 30 companies, for which a review was requested, and not withdrawn, did not file a separate rate application or certification, nor did they file a no shipments certification. Accordingly, the Department preliminarily determined these companies to be part of the PRC-wide entity. As discussed in detail in the Decision Memorandum, the Department continues to find Golden Bird to be part of the PRC-wide entity. Other than from Golden Bird, the Department has not received comments or information that would warrant a review of the preliminary decision to consider these companies part of the PRC-wide entity. Thus, for these final results, the Department continues to find all 124 companies to be part of the PRC-wide entity. A full list of companies determined to be part of the PRC-wide entity can be found in Appendix II.

⁵ See *Preliminary Results* at 72627.

⁶ *Id.* at 72626.

Separate Rates

In the *Preliminary Results*, the Department found that non-selected companies Chengwu County Yuanxiang Industry & Commerce Co, Ltd.; Jinxiang Richfar Fruits and Vegetables Co., Ltd.; Qingdao Lianghe International Trade Co., Ltd.; Shandong Chenhe International Trading Co., Ltd.; Xinboda; Weifang Hongqiao International Logistics Co., Ltd. and XuZhou Simple Garlic Industry Co., Ltd. demonstrated their eligibility for separate rates.⁷ Since the *Preliminary Results*, the Department has not received any comments that would warrant a review of these preliminary findings. Therefore, we continue to find that these companies are eligible for separate rates.

Neither the Tariff Act of 1930, as amended (the Act), nor the Department's regulations address the establishment of the rate applied to individual companies not selected for examination where the Department limited its examination in an administrative review pursuant to section 777A(c)(2) of the Act. The Department's practice in cases involving limited selection based on exporters accounting for the largest volumes of exports has been to look to section 735(c)(5) of the Act for guidance, which provides instructions for calculating the all-others rate in an investigation. Section 735(c)(5)(A) of the Act instructs the Department to avoid calculating an all-others rate using any rates that are zero, *de minimis*, or based entirely on facts available. Section 735(c)(5)(B) of the Act provides that, where all rates are zero, *de minimis*, or based entirely on facts available, the Department may use "any reasonable method" for assigning an all-others rate.

We determine that, consistent with our *Preliminary Results*, the rate for non-selected companies eligible for separate rates should be based on the rate used for non-selected separate rate companies in the most recently completed administrative review under this order. This is

⁷ *Id.* at 72626, 72627.

consistent with precedent and is a reasonable method to determine this rate in the instant review. Pursuant to this method, we are assigning the rate of \$1.82 per kilogram to non-selected companies eligible for separate rates, which is from the most recently completed administrative review under this order.⁸

Final Results of Review

The Department determines that the following dumping margins exist for the period November 1, 2012, through October 31, 2013.

Exporter	Weighted-Average Margin (dollars per kilogram)
Chengwu County Yuanxiang Industry & Commerce Co., Ltd.	1.82
Jinxiang Richfar Fruits & Vegetables Co., Ltd.	1.82
Qingdao Lianghe International Trade Co., Ltd.	1.82
Shandong Chenhe International Trading Co., Ltd.	1.82
Shenzhen Xinboda Industrial Co., Ltd.	1.82
Weifang Hongqiao International Logistics Co., Ltd.	1.82
XuZhou Simple Garlic Industry Co., Ltd.	1.82
PRC-Wide Rate ⁹	4.71

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b), the Department has determined, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise, where applicable, in accordance with the final results of this review. The Department intends to issue appropriate assessment instructions for such producers/exporters directly to CBP 15 days after the date of publication of this notice in the *Federal Register*.

The Department will direct CBP to assess importer-specific assessment rates based on the resulting per-unit (*i.e.*, per kilogram) amount on each entry of the subject merchandise during the

⁸ See *Fresh Garlic From the People's Republic of China: Final Results and Partial Rescission of the 18th Antidumping Duty Administrative Review; 2011-2012*, 79 FR 36721 (June 30, 2014).

⁹ Includes Golden Bird and Hejia.

POR. For entries that were not reported in the U.S. sales database submitted by an exporter individually examined during this review, the Department will instruct CBP to liquidate such entries at the PRC-wide rate. Additionally, if the Department determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.*, at the exporter's rate) will be liquidated at the PRC-wide rate.¹⁰

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this review for shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) For the companies listed above, the cash deposit rate will be the weighted-average dumping margins indicated above (except, if the rate is zero or *de minimis*, then zero cash deposit will be required); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of \$4.71 per kilogram; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These requirements, when imposed, shall remain in effect until further notice.

¹⁰ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during the POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

This notice also serves as a reminder to parties subject to an Administrative Protective Order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

These final results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

Dated: June 5, 2015.

Ronald K. Lorentzen,
Acting Assistant Secretary
for Import Administration.

Appendix I

Companies That Have Certified No Shipments

1. Cangshan Qingshui Vegetable Foods Co., Ltd.
2. Chengwu County Yuanxiang Industry & Commerce Co., Ltd.
3. Jinan Farmlady Trading Co., Ltd.
4. Jining Yifa Garlic Produce Co., Ltd.
5. Jining Yongjia Trade Co., Ltd.
6. Jinxiang Chengda Import & Export Co., Ltd.
7. Jinxiang Merry Vegetable Co., Ltd.
8. Jinxiang Yuanxin Import & Export Co., Ltd.
9. Shenzhen Bainong Co., Ltd.
10. Shijiazhuang Goodman Trading Co., Ltd.
11. Qingdao Maycarrier Import & Export Co., Ltd.
12. Qingdao Sea-line International Trading Co.
13. Qingdao Tiantaixing Foods Co., Ltd.
14. Qingdao Xiantianfeng Foods Co., Ltd. or Xi Tian Feng
15. Xuzhou Simple Garlic Industry Co., Ltd.
16. Yantai Jinyan Trading Inc.

Appendix II

List of Companies Subject to the PRC-Wide Rate

1. American Pioneer Shipping
2. Anhui Dongqian Foods Ltd.
3. Anqiu Friend Food Co., Ltd.
4. Anqiu Haoshun Trade Co., Ltd.
5. APM Global Logistics (Shanghai) Co., Ltd.
6. APS Qingdao
7. Chiping Shengkang Foodstuff Co., Ltd.
8. CMEC Engineering Machinery Import & Export Co., Ltd.
9. Dalian New Century Food Co., Ltd.
10. Dongying Shunyifa Chemical Co., Ltd.
11. Dynalink Systems Logistics (Qingdao) Inc.
12. Eimskip Logistics Inc.
13. Feicheng Acid Chemicals Co., Ltd.
14. Foshan Fuyi Food Co, Ltd.
15. Frog World Co., Ltd.
16. Golden Bridge International, Inc.
17. Goodwave Technology Development Ltd.
18. Guangxi Lin Si Fu Bang Trade Co., Ltd
19. Hangzhou Guanyu Foods Co., Ltd.
20. Hebei Golden Bird Trading Co., Ltd.
21. Hejiahuan (Zhongshan) Electrical AP
22. Henan Weite Industrial Co., Ltd.
23. Heze Ever-Best International Trade Co., Ltd. (f/k/a Shandong Heze International Trade and Developing Company)
24. Hongkong Golden Eagle Group Ltd.
25. Hongqiao International Logistics Co.
26. Intecs Logistics Service Co., Ltd.
27. IT Logistics Qingdao Branch
28. Jinan Solar Summit International Co., Ltd.
29. Jinan Yipin Corporation Ltd.
30. Jining De-Rain Trading Co., Ltd.
31. Jining Highton Trading Co., Ltd.
32. Jining Jiulong International Trading Co., Ltd.
33. Jining Tiankuang Trade Co., Ltd.
34. Jining Trans-High Trading Co., Ltd.
35. Jinxiang County Huaguang Food Import & Export Co., Ltd.
36. Jinxiang Dacheng Food Co., Ltd.
37. Jinxiang Dongyun Freezing Storage Co., Ltd. (a/k/a Jinxiang Eastward Shipping Import and Export Limited Company)
38. Jinxiang Dongyun Import & Export Co., Ltd.
39. Jinxiang Fengsheng Import & Export Co., Ltd.
40. Jinxiang Grand Agricultural Co., Ltd.

41. Jinxiang Hejia Co., Ltd.
42. Jinxiang Infarm Fruits & Vegetables Co., Ltd.
43. Jinxiang Meihua Garlic Produce Co., Ltd.
44. Jinxiang Shanyang Freezing Storage Co., Ltd.
45. Jinxiang Shenglong Trade Co., Ltd.
46. Jinxiang Tianheng Trade Co., Ltd.
47. Jinxiang Tianma Freezing Storage Co., Ltd.
48. Jinxiang Xian Baishite Trade Co., Ltd. (a/ k/a Jinxiang Best Trade Co., Ltd.)
49. Juye Homestead Fruits and Vegetables Co., Ltd.
50. Kingwin Industrial Co., Ltd.
51. Laiwu Fukai Foodstuff Co., Ltd.
52. Laiwu Jiahe Fruit and Vegetable Co., Ltd.
53. Laizhou Xubin Fruits and Vegetables
54. Linshu Dading Private Agricultural Products Co., Ltd.
55. Linyi City Hedong District Jiuli Foodstuff Co.
56. Linyi City Kangfa Foodstuff Drinkable Co., Ltd.
57. Linyi Katayama Foodstuffs Co., Ltd.
58. Linyi Tianqin Foodstuff Co., Ltd.
59. Ningjin Ruifeng Foodstuff Co., Ltd.
60. Qingdao Apex Shipping Co., Ltd.
61. Qingdao BNP Co., Ltd.
62. Qingdao Cherry Leather Garment Co., Ltd.
63. Qingdao Chongzhi International Transportation Co., Ltd.
64. Qingdao Everfresh Trading Co., Ltd.
65. Qingdao Liang He International Trade Co., Ltd
66. Qingdao Lianghe International Trade Co., Ltd.
67. Qingdao Saturn International Trade Co., Ltd.
68. Qingdao Sino-World International Trading Co., Ltd.
69. Qingdao Winner Foods Co., Ltd.
70. Qingdao XinTian Feng Food Co., Ltd.
71. Qingdao Yuankang International
72. Qufu Dongbao Import & Export Trade Co., Ltd.
73. Rizhao Huasai Foodstuff Co., Ltd.
74. Samyoung America (Shanghai) Inc.
75. Shandong Chengshun Farm Produce Trading Co., Ltd.
76. Shandong Chenhe Intl Trading Co., Ltd.
77. Shandong China Bridge Imports
78. Shandong Dongsheng Eastsun Foods Co., Ltd.
79. Shandong Garlic Company
80. Shandong Longtai Fruits and Vegetables Co., Ltd.
81. Shandong Sanxing Food Co., Ltd.
82. Shandong Wonderland Organic Food Co., Ltd.
83. Shandong Xingda Foodstuffs Group Co., Ltd.
84. Shandong Yipin Agro (Group) Co., Ltd.
85. Shanghai Ever Rich Trade Company
86. Shanghai Goldenbridge International Co., Ltd.

87. Shanghai Great Harvest International Co., Ltd.
88. Shanghai LJ International Trading Co., Ltd.
89. Shanghai Medicines & Health Products Import/Export Co., Ltd.
90. Shanghai Yijia International Transportation Co., Ltd.
91. Shenzhen Fanhui Import & Export Co., Ltd.
92. Shenzhen Greening Trading Co., Ltd.
93. Shenzhen Xunong Trade Co., Ltd.
94. Sunny Import & Export Limited
95. Tangerine International Trading Co.
96. T&S International, LLC.
97. Taian Eastsun Foods Co., Ltd.
98. Taian Fook Huat Tong Kee Pte. Ltd.
99. Taian Solar Summit Food Co., Ltd.
100. Taiyan Ziyang Food Co., Ltd.
101. Tianjin Spiceshi Co., Ltd.
102. U.S. United Logistics (Ningbo) Inc.
103. V.T. Impex (Shandong) Limited
104. Weifang Chenglong Import & Export Co., Ltd.
105. Weifang He Lu Food Import & Export Co., Ltd.
106. Weifang Hong Qiao International Logistics Co., Ltd.
107. Weifang Jinbao Agricultural Equipment Co., Ltd.
108. Weifang Naike Foodstuffs Co., Ltd.
109. Weifang Shennong Foodstuff Co., Ltd.
110. Weihai Textile Group Import & Export Co., Ltd.
111. WSSF Corporation (Weifang)
112. Xiamen Huamin Import Export Company
113. Xiamen Keep Top Imp. and Exp. Co., Ltd.
114. Xinjiang Top Agricultural Products Co., Ltd.
115. XuZhou Heiners Agricultural Co., Ltd.
116. Yishui Hengshun Food Co., Ltd.
117. You Shi Li International Trading Co., Ltd.
118. Zhangzhou Xiangcheng Rainbow Greenland Food Co., Ltd.
119. Zhengzhou Dadi Garlic Industry Co., Ltd.
120. Zhengzhou Huachao Industrial Co., Ltd.
121. Zhengzhou Xiwannian Food Co., Ltd.
122. Zhengzhou Xuri Import & Export Co., Ltd.
123. Zhengzhou Yuanli Trading Co., Ltd.
124. Zhong Lian Farming Product (Qingdao) Co., Ltd.

Appendix III

List of Topics Discussed in the Issues and Decision Memorandum

Summary

Background

Scope of the Order

Discussion of the Issues

- Comment 1: Whether Golden Bird Cooperated to the Best of its Ability in this Review
- Comment 2: Whether Golden Bird Should Be Part of the PRC-Wide Entity
- Comment 3: Assigned Separate Rate
- Comment 4: Whether Xinboda Should Have Been Individually Reviewed
- Comment 5: PRC-Wide Rate Challenge
- Comment 6: 15-Day Liquidation Instruction Policy Challenge

Recommendation

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